

MANDATE

2010 JAN -5 PM 3:42

E.D.N.Y. - Bklyn
09-cv-2343
Townes, J.

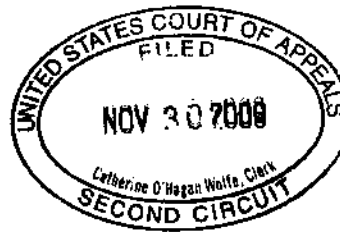
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 30th day of November, two thousand nine,

Present:

Dennis Jacobs,
Chief Judge,
Debra Ann Livingston,
Circuit Judge,
Jed S. Rakoff,*
District Judge.



Juan H. Garcia,

Plaintiff-Appellant,

v.

09-3585-cv

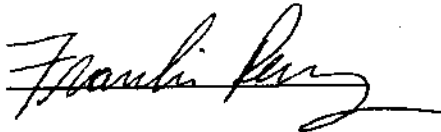
Denis Gonzalez, Detective, Precinct 110,
Servicio of the Intelligence, Queens County, NY,

Defendants-Appellees.


Appellant, *pro se*, moves to proceed *in forma pauperis* and for the appointment of counsel in his appeal of the district court's *sua sponte* dismissal of his complaint. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal is DISMISSED because it lacks an arguable basis in fact or law. See 28 U.S.C. § 1915(e); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (defining when an action is frivolous).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By: 

*Jed S. Rakoff, of the United States District Court for the Southern District of New York,
sitting by designation.
SAO-WYZ

A TRUE COPY
Catherine O'Hagan Wolfe, Clerk
by 
DEPUTY CLERK

ISSUED AS MANDATE: DEC 21 2009